



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

SEP 1 2011

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

Ms. Jean Martin  
Senior Attorney – Health, Safety & Environment  
BP America Inc.  
501 Westlake Park Blvd.  
Mailcode WL1.16.184  
Houston, TX 77079

RE: Approval of Financial Assurance Submittals from Atlantic Richfield Company and BP Products North America Inc. Regarding Certain Consent Decrees and Orders

Dear Ms. Martin,

This letter concerns financial assurance requirements in the following Consent Decrees and Orders: Northwest Oil Drain Site Administrative Order on Consent for Removal Action (CERCLA-08-2003-0014); Anaconda Copper Mine Site Administrative Order on Consent and Settlement Agreement for Removal Action and Past Response Costs (CERCLA-09-2009-0010); Butte Mine Flooding Site Consent Decree (CV 02-0035-BU-SEH); Leviathan Mine Site Administrative Settlement Agreement and Order on Consent for Removal Action (CERCLA 2008-29); and Milltown Site Consent Decree - certain Operation and Maintenance (CV 89-039-BU-SEH).

Pursuant to the financial assurance sections of the above-named Consent Decrees and Orders, Atlantic Richfield Company and BP Products North America Inc. are required to establish and maintain financial assurance to guarantee completion of work under the relevant Consent Decree or Order. Atlantic Richfield Company and BP Products North America Inc. selected the corporate guarantee option set forth in the Consent Decrees and Orders requiring them to submit specified financial information to EPA on an annual basis.

On September 20, 2010, EPA sent notices to Atlantic Richfield Company and BP Products North America Inc., informing these companies that the corporate guarantees submitted pursuant to the above-named Consent Decrees and Orders were inadequate due to the use of a corporate guarantee by a corporate guarantor that relied on the bond rating of an entity other than the corporate guarantor. The notice letters required Atlantic Richfield Company and BP Products North America Inc. to provide alternate financial assurance within deadlines referenced in each Consent Decree or Order. In addition, the letters required Atlantic Richfield Company and BP Products North America Inc. to respond to Requests for Information pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, and Section 3007 of RCRA, 42 U.S.C. § 6927.



In addition to responding to EPA's Requests for Information, Atlantic Richfield Company and BP Products North America Inc. submitted the following:

- A. An irrevocable letter of credit (LOC) in the amount of \$2,540,000 from Barclays Bank dated October 22, 2010 for the Northwest Oil Drain Site Administrative Order on Consent for Removal Action and associated amendment dated December 17, 2010, also from Barclays Bank;
- B. An irrevocable LOC in the amount of \$1,700,000 from Standard Chartered bank dated July 7, 2011 for the Anaconda Copper Mine Site Unilateral Administrative Order for Initial Response Activities;
- C. An irrevocable LOC in the amount of \$18,000,000 from Standard Chartered Bank dated October 25, 2010 for the Anaconda Copper Mine Site Unilateral Administrative Order for RI/FS;
- D. An irrevocable LOC in the amount of \$8,000,000 from Standard Chartered Bank dated October 27, 2010 for the Anaconda Copper Mine Site Administrative Order on Consent and Settlement Agreement for Removal Action and Past Response Costs;
- E. An irrevocable LOC in the amount of \$59,300,000 from Standard Chartered Bank dated October 27, 2010 for the Butte Mine Flooding Site Consent Decree and associated amendment dated December 22, 2010, also from Standard Chartered Bank;
- F. An irrevocable LOC in the amount of \$9,000,000 from Standard Chartered Bank dated October 22, 2010 for the Leviathan Mine Site Administrative Order for RI/FS and the Leviathan Mine Site Administrative Settlement Agreement and Order on Consent for Removal Action; and
- G. An irrevocable LOC in the amount of \$264,487 from JPMorgan Chase Bank dated May 6, 2011 for the Milltown Site Consent Decree.

This letter advises you that the irrevocable letters of credit (including any associated amendments) referenced in A through G above are approved by EPA, pursuant to the above-named Consent Decrees and Orders. The approval of the LOC for the Northwest Oil Drain Site is contingent on the issuance of an acceptable LOC in October 2011.<sup>1</sup>

EPA is submitting this written demand for payment of penalties in the amount of \$15,000, due within thirty (30) days of your receipt of this letter. Payment shall: (a) be paid by certified or cashier's check(s) made payable to EPA Hazardous Substance Superfund; (b) indicate that the payment is for stipulated penalties; (c) reference EPA Region 8, Northwest Oil Drain Site, Docket No. CERCLA-08-2003-0014, the name and address of the party making payment; and (d) be mailed to:

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<sup>1</sup> This LOC is approved by EPA with the condition that BP Products North America Inc. submit a revised LOC incorporating the December 17, 2010 amendment, and also incorporating the comments provided by EPA Region 8 on January 21, 2011, with EPA being provided an advance copy of the revised LOC prior to bank signature, as agreed to by BP Products North America in email to Chrisna Tan, EPA, dated June 15, 2011.

U.S. Environmental Protection Agency  
Superfund Payments  
Cincinnati Finance Center  
PO Box 979076  
St. Louis, MO 63197-9000

Copies of check(s) paid pursuant to this letter, and any accompanying transmittal letter(s), shall be sent to EPA by email at [tan.chrisna@epa.gov](mailto:tan.chrisna@epa.gov), and to the EPA Cincinnati Finance Office by email at [acctsreceivable.cinwd@epa.gov](mailto:acctsreceivable.cinwd@epa.gov), or by mail to:

EPA Cincinnati Finance Office  
26 Martin Luther King Drive  
Cincinnati, Ohio 45268.

By providing approved replacement financial assurance and by paying a penalty in the amount of \$15,000, Atlantic Richfield Company and BP Products North America Inc. have resolved the financial assurance issues described in the September 20, 2010 letters. This letter is not intended to, and does not in any way, affect EPA's right to pursue any other available enforcement remedies with regard to the above-named Consent Decrees and Orders or to take any other enforcement action with regard to Atlantic Richfield Company, BP Products North America Inc., or any related entity's financial assurance submissions or obligations with respect to any other sites or facilities.

Please contact Chrisna Tan of my staff at 202-564-4272 if there are any questions concerning this notice of approval.

Sincerely,



Elliott J. Gilberg, Director  
Office of Site Remediation Enforcement

cc: Steve Cornell, President, BP Products North America Inc.  
Robert Malone, President, Atlantic Richfield Company  
Robert Genovese, Vice President, BP America Inc.  
Joel Gross, Esq., Arnold & Porter  
Kerri Stelcen, Esq., Arnold & Porter  
Cari Shiffman, U.S. EPA  
Matthew Cohn, U.S. EPA Region 8  
Henry Elsen, U.S. EPA Region 8  
James Stearns, U.S. EPA Region 8  
Daniela Golden, U.S. EPA Region 8  
William Kirley, Esq., Montana DEQ  
Dustin Minor, U.S. EPA Region 9  
Andrew Helmlinger, U.S. EPA Region 9  
Joshua Wirtschafter, U.S. EPA Region 9